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MAY 17 1999

Before the  
**FEDERAL COMMUNICATIONS COMMISSION**  
OFFICE OF THE SECRETARY  
Washington, D.C. 20054

In the Matter of )  
 )  
Implementation of the Pay Telephone ) CC Docket No. 96-128  
Reclassification and Compensation ) File No. NSD-L-99-34  
Provisions of the Telecommunications )  
Act of 1996 )

**COMMENTS OF QWEST COMMUNICATIONS CORPORATION**

Qwest Communications Corporation ("Qwest"), by its attorneys, hereby files its comments in opposition to the petition of the RBOC/GTE/SNET Payphone Coalition ("RBOC Coalition") seeking clarification, on a going-forward basis, of which interexchange carrier ("IXC") is the party responsible for paying per-call compensation for dial-around or access code calls placed from payphones. 1/

**INTRODUCTION AND SUMMARY**

In its *First Payphone Order*, the Commission assigned to facilities-based carriers the responsibility of making compensation payments to payphone service providers ("PSPs") for dial-around and access code calls placed from payphones. 2/ A "facilities-based carrier" is defined as a carrier that maintains its

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1/ See *In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, CC Docket No. 96-128, *Petition for Clarification* (filed Feb. 26, 1999) ("*RBOC Coalition Petition*").

2/ See *In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996*, *et al.*, CC Docket No. 96-128, *Report and Order*, 11 FCC Rcd 20541, 20586 (1996) ("*First Payphone Order*").

own switching capability, regardless of whether the switching equipment is owned or leased by the carrier. 3/

Facilities-based carriers are required to pay per-call compensation for both themselves and their switchless-reseller customers. 4/ Payments made on behalf of such resellers, however, may be fully recovered from those resellers. 5/ The purpose of these payment rules is to promote administrative efficiency and lower costs in the payphone compensation process. 6/

In its petition, the RBOC Coalition claims that the division of responsibilities between facilities-based carriers and switchless resellers has “led to disagreements among PSPs and IXC’s, and has encouraged some IXC’s to shirk their payment responsibilities.” 7/ According to the RBOC Coalition, the current rules do not adequately account for calls handled by switch-based resellers, and this in turn has contributed to a shortfall of per-call compensation payments made to PSPs. 8/

To alleviate this purported shortfall, the RBOC Coalition requests that the Commission clarify its compensation rules by requiring the carrier identified by

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3/ See *In the Matter of the Pay Telephone Reclassification and Compensation Provisions of the Telecommunications Act of 1996, et al.*, CC Docket No. 96-128, *First Report and Order on Reconsideration*, 11 FCC Rcd 21233, 21277 (1997).

4/ *First Payphone Order* at 20586.

5/ *Id.*

6/ *Id.*

7/ *RBOC Coalition Petition* at 1.

8/ *Id.* at 1, 3-4.

the Carrier Identification Code (“CIC”) associated with the compensable call to be responsible for paying compensation for that call. 9/ As explained in further detail below, Qwest believes that granting this request would change, not “clarify,” the Commission’s rules, and should not be done. 10/

To begin with, altering the payphone compensation rules in this manner would unfairly require IXCs who have already implemented the current compensation rules to initiate a costly systems change. Carriers such as Qwest have already devoted countless hours and tremendous resources to structuring their billing systems in the manner prescribed by the *First Payphone Order*. Requiring Qwest and other IXCs to now change their systems because a few switch-based resellers supposedly have refused to pay per-call compensation would be unfair and irresponsible, especially in light of the other enforcement actions available to PSPs.

In addition, changing the rules so as to place the obligation of paying per-call compensation on the entity identified by the CIC used to route the compensable call from the local exchange carrier’s network would unfairly force carriers such as Qwest to bear the burden of paying per-call compensation on behalf of those facilities-based resellers who are responsible for and fully capable of making these payments themselves. All of the payphone calls that Qwest hands off

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9/ *Id.* at 4.

10/ Because the RBOC Coalition’s proposal would actually amend the rule that assigns responsibility for the payment of per-call compensation, the RBOC Coalition’s petition should more appropriately be classified as a petition for rulemaking. See 47 C.F.R. § 1.401.

to its switch-based reseller customers are accompanied by the relevant SS7 information to enable those resellers to identify and track the calls for which compensation is owed. Changing the per-call compensation rules in the manner requested by the RBOC Coalition would simply shift the burden of collecting compensation from switch-based resellers to facilities-based IXCs. This would not solve alleged non-payment issues, and would unfairly punish facilities-based IXCs for the conduct of non-compliant switch-based resellers.

**I.                ALTERING THE RULES IN THE MANNER REQUESTED  
                     WOULD REQUIRE A COSTLY SYSTEMS CHANGE FOR IXCs.**

The RBOC Coalition seeks to have the Commission change its rules so as to place the payment obligation for dial-around and access code payphone calls on the carrier identified by the CIC associated with the compensable call. 11/ This would require carriers such as Qwest, who, in reliance on the Commission's rules, have devoted considerable resources to establishing a billing system that is fully compliant with the *First Payphone Order* to undo or alter their systems. This would be extremely costly for Qwest, and should not be required in light of the other enforcement alternatives available to PSPs.

Presently, Qwest utilizes an "Information Digit" process to identify and pay for dial-around and access code calls placed from payphones. Typically, Qwest receives a call from a switch serving a payphone, and, based on a two digit code that accompanies that call, determines whether compensation must be paid. Because

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11/    *RBOC Coalition Petition* at 4.

the two digit code is part of the SS7 stream, Qwest is also able to use this information to determine whether the call was placed on behalf of one its switchless resellers, or whether it was placed on behalf of a switch-based carrier for whom Qwest provides originating service.

If the call was placed on behalf of one of Qwest's switchless resellers, then Qwest pays the PSP compensation for that call and recovers payment for that call from the reseller. If the call was placed on behalf of a switch-based carrier for whom Qwest provides only originating service, then Qwest merely hands-off the call (along with the SS7 information) to that carrier at the meet-point. Because the switch-based carrier "maintains its own switching capability," it is that carrier's responsibility under the Commission's rules to use the SS7 information to identify and pay for all compensable payphone calls.

Altering the Commission's rules so as to require Qwest to pay per-call compensation for every call associated with its CIC would require it to change this billing system. This would cause Qwest to incur significant expenses solely for the benefit of PSP collections. PSPs who do not receive payments from facilities-based resellers, or from any other carriers for that matter, have the option of pursuing enforcement actions against them. One alternative available to these carriers would be to file a formal complaint with the Commission. PSPs could also use the Commission's accelerated "Rocket Docket" process to resolve such billing disputes.

Requiring IXC's who are fully compliant with the current rules to change their billing systems because a few switch-based resellers may not be

making their requisite payments would constitute an extreme measure. Qwest and other IXC's should not be required to overhaul their billing systems -- especially when they are fully compliant with the Commission's current rules -- simply to make it easier for PSPs to collect payments.

## **II.           ALTERING THE COMPENSATION RULES WOULD MAKE LEGITIMATE CARRIERS LIABLE FOR THE FAILURES OF FACILITIES-BASED RESELLERS.**

As explained above, if Qwest determines that a compensable call was placed on behalf of a switch-based carrier for whom Qwest provides only originating service, then Qwest merely hands-off the call (along with the SS7 information) to that carrier at the meet-point. It is then that carrier's responsibility to use the SS7 information to identify and pay for the call.

Requiring compensation to be paid by the carrier whose CIC is associated with the call would shift this payment burden onto Qwest, requiring Qwest to track down the switch-based reseller to recover the payment. Qwest has done everything that it is required to do under the *First Payphone Order* to ensure that PSPs are paid the compensation they are owed. When Qwest incurs a payment obligation for itself or on behalf of its switchless-reseller customers, it makes the payment. When the payment obligation accrues to a switch-based reseller, Qwest passes on the information needed for that carrier to identify the call and make the appropriate payment.

Changing the method through which payment responsibility is prescribed in the manner suggested by the RBOC Coalition would only shift the

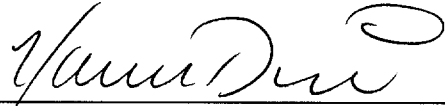
burden of dealing with an uncollectible payment from the PSP to carriers such as Qwest. It would not necessarily solve any alleged non-payment problem which may or may not exist. Qwest should not be required to mediate between PSPs and facilities-based resellers, who are perfectly capable of complying with the compensation rules, or be forced to absorb the costs associated with the flow of payments between them. Qwest should also not be punished for the failures of switch-based resellers, or the frustration PSPs may incur when dealing with them. PSPs that are unable to collect payments from facilities-based resellers may use the Commission's enforcement mechanisms to stake their claim. Requiring compliant IXC's such as Qwest to be responsible for making such payments would be both unnecessary and unfair.

## CONCLUSION

For the reasons described herein, the Commission should reject the RBOC Coalition's petition, and should affirm that its current rules adequately address the compensation obligations of IXC's for dial-around and access code calls placed from payphones.

Respectfully submitted,

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Date: May 17, 1999



## CERTIFICATE OF SERVICE

I hereby certify that on this 17th day of May, 1999, I served a copy of the foregoing "Comments of Qwest Communications Corporation" on the parties listed below via hand delivery (where indicated by "\*") or first-class U.S. Mail:

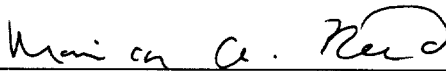
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